

### **REMARKS**

In the final Office Action mailed April 12, 2007<sup>1</sup>, the Examiner objected to the specification; objected to the drawings; and rejected claims 1-20 under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Patent No. 6,513,532 to Mault et al. ("*Mault '532*"), which incorporates U.S. Patent No. 6,478,736 to Mault et al. ("*Mault '736*") by reference.

By this Amendment, Applicants have amended claims 1, 2, 5, 10, 19, and 20. Claims 1-20 are currently pending.

#### **I. The Objection to the Specification**

The Examiner states that the "claims are objected to because they include reference characters which are not enclosed within parentheses" (Office Action at p. 2). However, neither Applicants' originally filed claims, nor Applicants' claims as amended in the Reply to Office Action filed February 7, 2007, contain reference characters. Accordingly, Applicants respectfully request the Examiner to withdraw the objection.

#### **II. The Objection to the Drawings**

The Examiner indicates that "the following reference character(s) [are] not mentioned in the description: reference numbers s35, s42, s44, and s45 in figure 19B." (Office Action at p. 2). In light of the amendments to the specification presented herein, Applicants respectfully request the Examiner to withdraw the objection to the drawings.

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<sup>1</sup> As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicants that such requirements have been met, and Applicants reserve the right to analyze and dispute such in the future.

**III. The Rejection of Claims 1-20 under 35 U.S.C. § 102(b)**

Applicants respectfully traverse the Examiner's rejection of claims 1-20 as allegedly being anticipated by *Mault '532*. *Mault '532*, including *Mault '736*, fails to disclose each and every element of any of claims 1-20, as required to sustain a rejection under 35 U.S.C. § 102(b). For example, the references at least fail to teach or suggest at least a "behavior schedule reorganization unit configured to reorganize the schedule ... wherein at least the route schedule is reorganized," as recited in claim 1, as proposed to be amended.

*Mault '532* discloses "[a] diet and activity-monitoring device" (*Mault '532*, abstract). *Mault '532* further discloses that the activity monitoring can include monitoring running routes for a user (*Mault '532*, col. 9, lines 30-56). However, *Mault '532* fails to disclose that the device is configured to reorganize a route schedule. *Mault '532*, therefore, fails to teach or suggest a "behavior schedule reorganization unit configured to reorganize the schedule ... wherein at least the route schedule is reorganized," as recited in claim 1.

*Mault '736* fails to cure the deficiencies of *Mault '532*. *Mault '736* discloses "[a]n improved health management system for a person ... in which the person's resting metabolic rate (RMR) is determined at intervals using an indirect calorimeter." (*Mault '736*, abstract). *Mault '736* continues, "[t]he software provides goals and feedback to the user in relation to weight goals, which are modified by changing values in the metabolic rate of the user." (*Mault '736*, col. 6, lines 34-36). However, the "goals and feedback" do not include reorganizing a route schedule, and the system is not

configured to reorganize a route schedule. *Mault* '736, therefore, fails to teach or suggest a "behavior schedule reorganization unit configured to reorganize the schedule ... wherein at least the route schedule is reorganized," as recited in claim 1.

Claim 1, as proposed to be amended, also recites a "message generation unit configured to generate a message to urge the user to walk according to the route schedule by referring to the reorganized schedule." The references also fail to teach or suggest the claimed "message generation unit."

As discussed, *Mault* '532 discloses a diet and activity monitoring device, but fails to disclose reorganizing a route schedule. Moreover, while *Mault* '532 discloses calibrating the device using route information such as distances and speeds (*Mault* '532, col. 10, lines 5-12), *Mault* '532 fails to teach or suggest urging a user to walk according to a reorganized route schedule, or that the device is configured to do so. *Mault* '532, therefore, fails to teach or suggest a "message generation unit configured to generate a message to urge the user to walk according to the route schedule by referring to the reorganized schedule," as recited in claim 1.

*Mault* '736 fails to cure the deficiencies of *Mault* '532. As discussed, *Mault* '736 discloses a health management system. Moreover, while *Mault* '736 discloses devising an exercise program for a user, *Mault* '736 fails to teach or suggest that the exercise program includes generating a message to the user. Moreover, *Mault* '736 fails to teach or suggest that the exercise schedule includes walking a reorganized route. *Mault* '736, therefore, fails to teach or suggest a "message generation unit configured to generate a

message to urge the user to walk according to the route schedule by referring to the reorganized schedule,” as recited in claim 1.

Amended claim 1 is, therefore, allowable over *Mault* '532 and claims 2-18 are allowable at least due to their dependence from claim 1.

Independent claims 19 and 20, while of different scope, recite features similar to those recited in claim 1. Claims 19 and 20, therefore, are allowable at least for reasons discussed above in regard to claim 1. Claims 2-18 depend from independent claim 1 and are allowable over the prior art at least due to their dependence.

Accordingly, Applicants request that the Examiner withdraw the rejection of claims 1-20 under 35 U.S.C. § 102(b) and allow the claims.

#### **IV. Conclusion**

Applicants respectfully request that the Examiner enter this Amendment under 37 C.F.R. § 1.116, placing claims 1-20 in condition for allowance. Applicants submit that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Reply, please charge  
the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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